

1 DAVID R. ONGARO, CA SBN. 154698 (admitted *pro hac vice*)

david.ongaro@tklaw.com

2 AMELIA D. WINCHESTER, CA SBN. 257928(admitted *pro hac vice*)

amelia.winchester@tklaw.com

3 THOMPSON & KNIGHT LLP

50 California Street, Suite 3325

4 San Francisco, CA 94111

Telephone: (415) 433-3900

5 Facsimile: (415) 433-3950

6 Michael E. McAleenan, WSBA #29426

SMITH ALLING, PS

7 Attorneys for Defendants

1515 Dock Street, Suite 3

8 Tacoma, WA 98402

253-627-1091

9 253-627-0123 (fax)

mmc@smithalling.com

10 julie@smithalling.com

11 *Attorneys for Defendant TrueBlue, Inc.*

12 UNITED STATES DISTRICT COURT
13 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

14 DANIEL JOSEPH, an individual on behalf of himself
15 and all others similarly situated,

16 Plaintiff,

17 v.

18 TRUEBLUE, INC. d/b/a LABOR READY, INC., and
TRUEBLUE, INC., Washington corporations,

19 Defendants.

No. 3:14-cv-05963-BHS

**DECLARATION OF CAROLYN
ASCHEMAN IN SUPPORT OF
DEFENDANT'S MOTION TO
DETERMINE CHOICE OF LAW**

ORAL ARGUMENT REQUESTED

20
21
22
23
DECLARATION OF CAROLYN ASCHEMAN

(Case No. 3:14-cv-05963-BHS)

SMITH | ALLING PS

ATTORNEYS AT LAW

1515 Dock Street, Suite 3
Tacoma, Washington 98402
Telephone: (253) 627-1091
Facsimile: (253) 627-0123

1 I, Carolyn Ascheman, declare as follows:

2 1. I am over 18 years of age and make this declaration based on personal knowledge
3 and, if sworn as a witness, I could and would testify competently to the facts contained herein.

4 2. I am the Director of Product Ownership for TrueBlue, Inc. ("TrueBlue"). I have
5 held this role since October 2014 and work out of TrueBlue's headquarters in Tacoma,
6 Washington.

7 3. I work in the TrueBlue Information and Technology Department. My job duties
8 include providing support for some of the various software products that are licensed to
9 TrueBlue, Inc.'s subsidiaries, which includes the WorkAlert text messaging application.
10 WorkAlert is used by Labor Ready Midwest, Inc. to provide job offers to those seeking work.

11 4. When an employee at a Labor Ready Midwest, Inc. branch wishes to make an
12 offer for temporary work to a temporary worker who has opted in to the text messaging program
13 through WorkAlert, the employee does so by bringing up a web browser application
14 (WorkAlert) in the employee's branch. In that browser application the employee can then look
15 up employees whose skills match the job opportunity. The Labor Ready Midwest, Inc. employee
16 can then type an individualized message to send to the temporary worker. When the Labor
17 Ready Midwest, Inc. employee selects "send," the message will be transmitted.

18 5. After the message is sent, the information is conveyed as raw data to a TrueBlue,
19 Inc. server.

20 6. From there the information is sent - still in data form- to a third-party service
21 called an aggregator. The aggregators have a direct relationship with the cellular carriers, and
22 either the aggregator or the cellular provider takes the information sent from the Labor Ready
23

1 Midwest, Inc. branch and converts it into a text message (in this instance SMS) format.

2 7. From there, the cellular carrier delivers any message to a temporary worker's
3 phone, and the worker can respond if the worker is interested in the job.

4 8. TrueBlue, Inc. has no involvement in composing the WorkAlert text messages,
5 however, raw data passes through a TrueBlue, Inc. server. Accordingly, any text messages
6 Daniel Joseph would have received regarding potential job opportunities with Labor Ready
7 Midwest, Inc. would have been written and thereafter sent through WorkAlert by a Labor Ready
8 Midwest, Inc. employee located in Minnesota.

9 I declare under penalty of perjury under the laws of the United States that the foregoing
10 is true and correct.

11 Executed this 6th Day of April, 2015 at Tacoma, Washington.

12
13 
14 Carolyn Asch
15
16
17
18
19
20
21
22
23

CERTIFICATE OF SERVICE

I hereby certify that I have this 8th day of April, 2015, served a true and correct copy of the foregoing document, via the methods noted below, properly addressed as follows:

Counsel for Plaintiff:

Beth E. Terrell, WSBA #26759
TERRELL MARSHALL DAUDT
& WILLIE PLLC
936 North 34th Street, Suite 300
Seattle, Washington 98103
Facsimile: (206) 350-3528
Email: bterrell@tmdwlaw.com

_____ Hand Delivery
_____ U.S. Mail (first-class, postage
prepaid)
_____ Overnight Mail
_____ Facsimile
_____ Email
 X ECF

Keith James Keogh
KEOGH LAW, LTD.
55 W. Monroe Street, Suite 3390
Chicago, Illinois 60603
Facsimile: (312) 726-1093
Email: keith@keoghlaw.com

_____ Hand Delivery
_____ U.S. Mail (first-class, postage
prepaid)
_____ Overnight Mail
_____ Facsimile
_____ Email:
 X ECF

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 8th day of April, 2015, at San Francisco, California.

/s/ Bridgette Ollberding
BRIDGETTE OLLBERDING